IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 15506 of 2006(U)

PETITIONERS:

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1. **A.M.SHAMSUDEEN, AGED 35 YEARS, S/O.MOIDEENKUTTY, ARACKAL, KUNNUKARA, KUNNUKARA VILLAGE, NORTH PARUR TALUK.**

2. **M.T.PATHROSE, AGED 53, S/O.THOMAS, MANAVALAN HOUSE, KUNNUKARA, KUNNUKARA VILLAGE, NORTH PARUR TALUK.**

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN

RESPONDENTS:

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1. **THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO THE CHIEF SECRETARY TO THE GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**

2. **THE DISTRICT COLLECTOR, ERNAKULAM, COLLECTORATE, ERNAKULAM.**

3. **KUNNUKARA GRAMA PANCHAYATH, KUNNUKARA P.O. NORTH PARUR TALUK, REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.S.SHANAVAS KHAN, SC PANCHAYATH
BY GOVERNMENT PLEADER SRI. K.J.MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.15506/2006 U

APPENDIX

PETITIONER'S EXHIBITS;

EXT.P1: **COPY OF THE JUDGMENT DTD. 26/10/2004 PASSED BY THIS HON'BLE COURT.**

EXT.P2: **COPY OF THE ORDER DTD. 27/08/2005 PASSED BY THE 2ND RESPONDENT.**

EXT.P3: **COPY OF THE DECREE DTD. 31/05/2005 PASSED IN A.S.NO.117 OF 2005 ON THE FILE OF THE DISTRICT COURT, NORTH PARUR.**

EXT.P4: **COPY OF THE COMPLAINT DTD. 25/11/2005 SUBMITTED BY THE PETITIONERS.**

EXT.P5; **COPY OF THE COMPLAINT DTD. 30/11/2005 SUBMITTED BY THE PETITIONERS.**

EXT.P6: **COPY OF THE COMPLAINT DTD. 1/12/2005 SUBMITTED BY THE PETITIONERS.**

EXT.P7: **COPY OF THE LAWYER NOTICE DTD. 12/04/2006.**

EXT.P7(A): **COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE 3RD RESPONDENT DTD. 19/04/2006.**

EXT.P8: **COPY OF THE COMPLAINT DTD. 27/10/2006 SUBMITTED BY THE PETITIONERS.**

/TRUE COPY/

P.A.TO JUDGE

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) No. 15506 OF 2007

Dated this the 29th day of October, 2007

JUDGMENT

Heard Sri.P.N.Ramakrishnan Nair, counsel for the petitioner, Sri.Shanavas Khan, Standing Counsel for the Panchayat and Sri.K.J.Mohammed Anzar, Government Pleader for the State and the District Collector.

2. The grievance of the petitioners is that even though the District Collector has refused permission to the Panchayat for the establishment of a crematorium on a property which is situated very near to their residential premises, the Panchayat is permitting people to burn and bury their dead on this property resulting in serious health problems for themselves and the neighbouring public. Counsel for the Panchayat submits that establishment of a burial ground in the area of the Panchayat is a necessity and the Panchayat has already approached the Government being aggrieved by the District Collector's order. Whatever that be, so long as the District Collector's orders refusing permission to the Panchayat for the commencement of a burning and burial ground stands, it is not proper on the part of the Panchayat to permit people to burn and bury their dead on the property in question.

3. Mr.Shanavas Khan, submits that the allegation that the

Panchayat is permitting the people to burn and bury the dead on the property is not correct. The Panchayat has actually moved the police against such unauthorised burning and burial.

I do not propose to decide the issue. Ext.P6 submitted by the petitioners is pending before the 2nd respondent. The 2nd respondent will look into Ext.P6, get remarks from the 3rd respondent and take a correct decision on Ext.P6. Decision as directed above will be taken at the earliest and at any rate within one month of the petitioner making available a copy of this judgment and copy of the Writ Petition along with all the exhibits.

PIUS C. KURIAKOSE, JUDGE

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